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July 18, 2018

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Pennsylvania State Senator Andrew E. Dinniman v. Sunoco Pipeline L.P.; Docket Nos. C-2018-3001451; P-2018-3001453; **SUNOCO PIPELINE L.P.'S ANSWER OPPOSING PETITION TO INTERVENE OF WEST WHITELAND TOWNSHIP**

Dear Secretary Chiavetta:

Attached for electronic filing with the Commission is Sunoco Pipeline L.P.'s Answer Opposing Petition to Intervene of West Whiteland Township in the above-referenced proceeding.

If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

Thomas J. Sniscak
Kevin J. McKeon
Whitney E. Snyder
Counsel for Sunoco Pipeline L.P.

WES/das
Enclosure
cc: Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA STATE SENATOR	:	
ANDREW E. DINNIMAN,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3001451
	:	P-2018-3001453
SUNOCO PIPELINE L.P.,	:	
	:	
Respondent.	:	

**SUNOCO PIPELINE L.P.’S ANSWER
OPPOSING PETITION TO INTERVENE
OF WEST WHITELAND TOWNSHIP**

Pursuant to 52 Pa. Code § 5.66,¹ Sunoco Pipeline L.P. (SPLP) submits this Answer Opposing West Whiteland Township’s June 28, 2018 Petition to Intervene in this proceeding because the Petition is untimely and West Whiteland Township has not shown its interests are not adequately represented.

1. Senator Dinniman filed the Complaint and Petition in this proceeding on April 25, 2018.
2. Senator Dinniman filed an Amended Complaint and Amended Petition in this proceeding on April 30, 2018.

¹ SPLP notes that it is not required to specifically answer the allegations within a petition to intervene, and any such allegations are not deemed admitted by SPLP’s non-response. Compare 52 Pa. Code § 5.66 (“party may file an answer to a petition to intervene within 20 days of service, and in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other parties.”) with § 5.61(b)(3) (as to form of answers to complaints, answers must “Admit or deny specifically all material allegations of the complaint”).

3. West Whiteland Township filed a Petition to Intervene on June 28, 2018.
4. West Whiteland Township's Petition was filed 64 days after the filing of the Complaint and Petition.
5. West Whiteland Township alleges in its Petition that it was timely filed. Petition at P 16. It was not.
6. 52 Pa. Code §§ 5.74 and 5.53 require a petition to intervene in a proceeding be filed within 60 days of the initiating pleading in a proceeding, absent "good cause shown."
7. West Whiteland Township's Petition was untimely because it was filed 64 days after the Complaint and Petition in this proceeding.
8. The April 30, 2018 amendments to the Complaint and Petition did not extend the time for interventions. There is no Commission regulation that extends the time for intervention when an amendment to a pleading is filed. A petition to intervene is due 60 days from an initiating complaint/petition. 52 Pa. Code §§ 5.74 and 5.53.
9. In contrast, the Commission's regulations expressly extend the answering time period when an amended pleading is filed to require an answer within 20 days of the amended pleading. 52 Pa. Code § 5.65(a). The presence of a specific Commission regulation that extends the time for an answer in the event of an amended pleading coupled with the absence of any Commission regulation regarding intervention and amended pleadings means that the Commission has not changed the time period for intervention in the event of an amended pleading. *See, e.g., Popowsky v. Pennsylvania Public Utility Com'n*, 869 A.2d 1144, 1159 (Pa. Cmwlth. 2005) (the inclusion of a specific matter in a statute implies the exclusion of other matters).
10. To allow untimely intervention, the petition to intervene must show good cause. 52 Pa. Code § 5.74.

11. West Whiteland Township fails to even allege good cause for allowing it to intervene out of time in this proceeding.

12. There is no good cause to allow West Whiteland Township to intervene out of time and its Petition should be denied. The Amended Petition in this proceeding has already been resolved by the Commission. While the underlying Amended Complaint will proceed, West Whiteland Township shows no reason or right to intervene in this matter out of time. Moreover, on information and belief, West Whiteland Township must have known of the filing of the Complaint and Petition when they were filed given the extensive press coverage and Senator Dinniman's own press releases. *See e.g.*, Press Release, Dinniman Files Legal Complaint Against Sunoco, Calls on PUC to Stop Mariner Pipelines in West Whiteland (Apr. 26, 2018) (available at <http://www.senatordinniman.com/dinniman-files-legal-complaint-against-sunoco-calls-on-puc-to-stop-mariner-pipelines-in-west-whiteland>); State senator files complaint asking PUC to halt Mariner East pipeline construction, State Impact PA (Apr. 27, 2018) (available at <https://stateimpact.npr.org/pennsylvania/2018/04/27/state-senator-files-complaint-asking-puc-to-halt-mariner-east-pipeline-construction/>).

13. West Whiteland Township's Petition to Intervene should also be denied because it has failed to even allege that its interests are not already adequately represented in this proceeding. 52 Pa. Code § 5.72 (a)(2); *see generally* Petition to Intervene.

14. Indeed, West Whiteland Township merely states it "possesses a sufficient legal interest in this matter so as to permit the filing of this intervention." Petition to Intervene at ¶ 16. However, 52 Pa. Code § 5.72(a)(2) expressly provides that to intervene, petitioner must possess "an interest which may be directly affected **and which is not adequately represented by existing**

participants.” *Id.* (emphasis added). Accordingly, West Whiteland Township’s Petition to Intervene should be denied on this basis as well.

15. SPLP notes that if West Whiteland Township is nonetheless granted intervenor status, late filed intervenors must take the case as it is, and cannot expand the scope of the proceeding. *See Com., et al. v. Energy Services Providers, Inc. d/b/a PaG&E, Order Granting Petition to Intervene*, Docket No. C-2014-2427656, 2015 WL 1957859 (Order entered Apr. 23, 2015) (Cheskis, J.) (“In granting intervention, however, Mr. Sobiech will be required to take the case as it currently stands. PaG&E is correct that intervenors generally take the record as they find it at the time of intervention.”). West Whiteland Township attempts to do exactly that, for example, raising noise issues and requesting concurrent construction of the ME2 and ME2X pipeline. Petition to Intervene at 17. Even if intervention is allowed, West Whiteland Township cannot pursue such issues because they are beyond the scope of the Amended Complaint.

WHEREFORE, Sunoco Pipeline L.P. requests West Whiteland Township's Petition to Intervene be denied.

Respectfully submitted,



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Attorneys for Respondent Sunoco Pipeline L.P.

Dated: July 18, 2018

VERIFICATION

I, Matthew Gordon, certify that I am Project Director, for Sunoco Pipeline LP, and that in this capacity I am authorized to, and do make this Verification on their behalf, that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that Sunoco Pipeline LP, expects to be able to prove the same at any hearing that may be held in this matter. I understand that false statements made therein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.



Matthew Gordon
Project Director

DATED:

7/18/8

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party). This document has been filed electronically on the Commission's electronic filing system and served via overnight mail on the following:

VIA FIRST CLASS AND E-MAIL

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Dated: July 18, 2018